

**Zoning Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**



**AGENDA ITEM NO.: Z-1
AGENDA DATE: Thu 02/16/2006
PAGE: 1 of 1**

SUBJECT: C14-05-0120 - Parmer/290 - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as U.S. Highway 290 East and East Parmer Lane (Gilleland Creek Watershed) from development reserve (DR) district zoning to commercial highway (CH) district zoning. Zoning and Platting Commission Recommendation: To grant commercial highway-conditional overlay (CH-CO) combining district zoning. Applicant: G & G Venture #1 (Tom Goebel). Agent: Bury and Partners, Inc. (Jonathan Neslund). City Staff: Sherri Sirwaitis, 974-3057.

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guernsey

ZONING CHANGE REVIEW SHEET

CASE: C14-05-0120

Z.A.P. DATE: January 17, 2006

ADDRESS: U.S. Highway 290 East and East Parmer Lane

OWNER/APPLICANT: G & G Venture #1 (Tom Goebel)

AGENT: Bury and Partners, Inc. (Jonathan Neslund)

ZONING FROM: DR

TO: CH

AREA: 12.609 acres

SUMMARY STAFF RECOMMENDATION:

The staff's recommendation is to grant CH, Commercial Highway District, zoning. This recommendation includes a public restrictive covenant to encompass the conditions from the Traffic Impact Analysis for this case (TIA memo – Attachment A).

ZONING AND PLATTING COMMISSION RECOMMENDATION:

1/17/06: Approved the staff's recommendation of CH zoning by consent with the following additional conditions: a 90-foot height limit and to prohibit Adult Oriented Businesses, Campground, Commercial Blood Plasma Center, Drop-off Recycling Collection Facility, Pawn Shop Services, Vehicle Storage, Guidance Services, Residential Treatment, and Transitional Housing uses.

Vote: (9-0); J. Martinez-1st, J. Gohil-2nd.

DEPARTMENT COMMENTS:

The property in question is currently undeveloped. The applicant is requesting CH, Commercial Highway district, zoning for this site because he intends to develop retail uses at this location.

The staff supports the applicant's request to rezone the property to CH because the property has frontage on two major arterial roadways, U.S. Highway 290 and East Parmer Lane. The location and size of the site meets the intent of the Commercial Highway district designation.

The proposed zoning is appropriate for this location because of the commercial and industrial character of the area. The Harris Branch PUD, which is located to the north and west of this site, is in the process of being rezoned for CH development regulations and uses for Tracts SG-1 through SG-14. The PUD rezoning for case C814-90-0003.13 was recommended by the Zoning and Platting Commission on September 20, 2005 and approved by the City Council on October 27, 2005 at first reading.

The applicant agrees with the staff recommendation.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	DR	Undeveloped
<i>North</i>	County	Undeveloped
<i>South</i>	County	Undeveloped
<i>East</i>	DR	Undeveloped
<i>West</i>	DR, PUD	Warehouse/Distribution

AREA STUDY: N/A**TIA:** Required**WATERSHED:** Gilleland Creek**DESIRED DEVELOPMENT ZONE:** Yes**CAPITOL VIEW CORRIDOR:** N/A**HILL COUNTRY ROADWAY:** N/A**NEIGHBORHOOD ORGANIZATIONS:**

511 – Austin Neighborhoods Council

643 – North East Action Group

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-04-0008	I-RR to GR-MU	3/02/04: Approved staff's rec. of GR-MU-CO, with a CO for a 2,000 vtpd limit, by consent (8-0, J. Gohil-absent)	4/01/04: Granted ZAP rec. for GR-MU-CO zoning by consent (7-0); all 3 readings
C814-90-0003.13	PUD to PUD	9/20/05: Approved PUD amendment to allow the following: 1) CH development regulations and uses on Tracts SG-1, SG-2, SG-3, SG-4, SG-6, SG-7, SG-8, SG-9, SG-10, SG-13, SG-14 and P development regulations and uses on 2.17 acre Transit Tract (located at the south eastern corner of the PUD) 2) Limit height to 125 feet in CH designated areas (Tracts SG-1, SG-2, SG-3, SG-4, SG-6, SG-7, SG-8, SG-9, SG-10, SG-13, SG-14) 3) If additional parkland requirements are triggered as a result of any residential development within the East and West PUD tracts fronting US Highway 290, this will be	10/27/05: Approved ZAP recommendation for PUD amendment with additional conditions by consent(6-0, Alvarez-off dias); 1 st reading 12/15/05: Postponed to January 12, 2006 at the staff's request (7-0)

		<p>satisfied through the parkland dedication made and required to be made in the remainder of the Harris Branch PUD.</p> <p>4) Permitted uses, conditional uses, prohibited uses, accessory uses, and site development regulations are modified to allow development in the PUD to comply with site development regulations and permitted uses of the PUD land use plan.</p> <p>5) Traffic Impact Analyses will be deferred to the site plan stage of development.</p> <p>6) The impervious cover for State Highway 130 and U.S. Highway 290 shall not be included in the impervious cover calculations for the PUD (requested variance to LDC Sec. 25-8-65).</p> <p>7) An administrative variance to cut and fill in excess of four (4) feet but less than fifteen (15) feet. There shall be no cut and fill limitations with respect to cut and fill to occur under a foundation with sides perpendicular to the ground for backfill for utility construction, in public or private roadway right-of-way, for utility construction, storm water and water quality facilities, driveways and sidewalks.</p> <p>8) Impervious cover allowances designated in the zoning granted for the PUD shall not be diminished by watershed regulations. If this is necessary, then the watershed regulations shall be varied to make the allowable impervious cover under the applicable watershed regulation the same as allowed in the CH, Commercial Highway</p>	
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		<p>District, zoning designation (85%).</p> <p>9) A block length variance shall be granted for all streets within the amended PUD (requested variance to LDC Section 25-4-153).</p> <p>10) Stock tanks and water features shall meet the satisfaction of the Environmental staff.</p> <p>11) Incorporate applicable conditions listed in the letter to Pat Murphy, the Environmental Officer, dated September 20, 2005 (Attachment G).</p> <p>Vote: (9-0); K. Jackson-1st, J. Martinez-2nd.</p>	
C814-90-0003.12 (Harris Branch PUD)	11/08/01: PUD Revision #12	Approved Administratively 2/26/02: Approved Appeal to deny staff administrative amendment to PUD land use plan (8-0)	8/22/02: Upheld appeal (7-0)
C814-90-0003.11	8/31/00: PUD Revision #11	1/23/01: Approved staff rec. w/conditions by consent (8-0)	3/1/01: Approved PUD (7-0); all 3 readings
C814-90-0003.10	11/05/99: PUD Revision #10	11/22/99: Approved Administratively	N/A
C814-90-0003.09	12/22/97: PUD Revision #9	5/13/98: Approved Administratively	N/A
C814-90-0003.08	3/18/96: PUD Revision #8	3/15/96: Administrative Approval of Parks/Trails Package	N/A
C814-90-0003.07	1/06/94: PUD Revision #7	1/15/96: Approved Administratively	N/A
C814-90-0003.06	10/11/93: PUD Revision #6	6/06/94: Approved Administratively	N/A
C814-90-0003.05	11/09/92: PUD Revision #5	12/4/92: Approved Change Acreages to Comply with Tract Surveys-Administrative	N/A

		Revision # 5	
C814-90-0003.04	3/02/92: PUD Revision #4	6/29/92: Approved Administratively	N/A
C814-90-0003.03	9/06/91: PUD Revision #3	1/14/92: Approved Administratively	N/A
C814-90-0003.02	8/13/91: PUD Revision #2	9/05/91: Approved Administratively	N/A
C814-90-0003.01	7/08/91: PUD Revision #1	7/29/91: Approved Administratively	N/A
C814-90-0003	10/31/90: PUD Revision From DR to PUD (LI)	12/11/90: Approved PUD w/ conditions (6-0-1, WB- abstain)	12/13/90: Approved PUD (5-0); all 3 readings
C814-89-0004 (Harris Branch PUD)	SF-2, SF-4, & SF-6 to PUD	6/27/89: Granted with conditions.	7/27/89: Approved PUD w/ conditions (6-0); 1 st reading 11/16/89: Approved PUD w/ conditions (5-0); 2 nd /3 rd readings
C14-86-188	DR, I-RR to SF-2, SF-4 DR, I-RR to SF-6, MF-2 DR, I-RR to MF-3, LR DR, I-RR to GR, GO DR, I-RR to LO, LI DR, I-RR to IP, P	11/4/86: Approved SF-2, SF- 4, SF-6, MF-2, MF-3, LR, GR, LO, GO, LI, IP, P & RR w/ conditions (6-3)	12/18/86: Approved SF-2, SF-4, SF-6, MF-2, MF-3, LR, GR, GO, LO, LI, IP, & P; 1 st reading 4/23/87: Approved SF-2, SF-4, SF-6, MF-2, MF-3, LR, GR, GO, LO, LI, IP, & P (4-0); 2 nd reading 4/30/87: Approved SF-2, SF-4, SF-6, MF-2, MF-3, LR, GR, GO, LO, LI, IP, & P (5-0); 3 rd reading

RELATED CASES: N/A

ABUTTING STREETS:

NAME	ROW	PAVEMENT	CLASSIFICATION	DAILY TRAFFIC
Parmer Lane	200'	Varies	Arterial	
US Hwy 290	Varies	Varies	Arterial	

CITY COUNCIL DATE: February 16, 2006

ACTION:

ORDINANCE READINGS: 1st

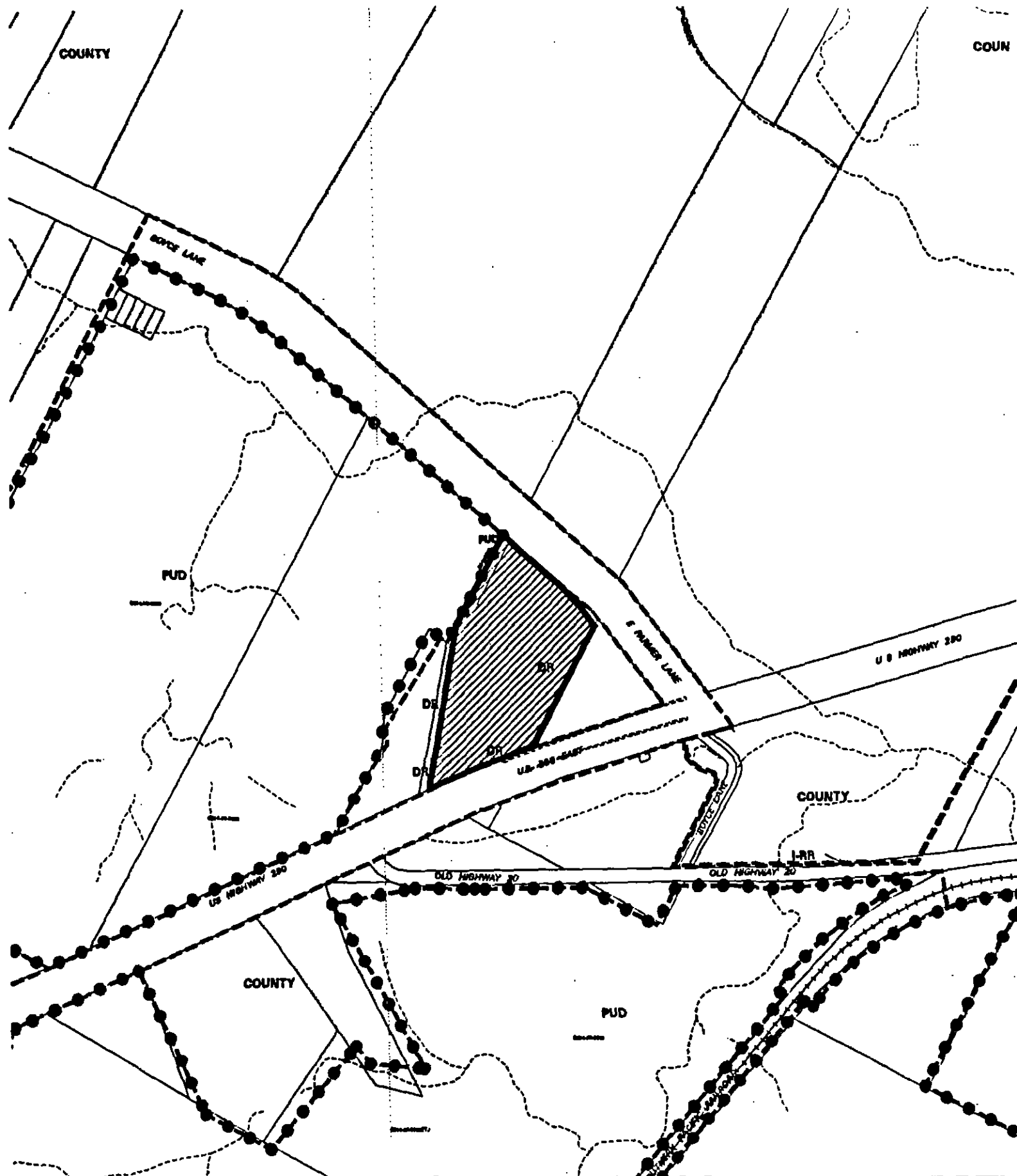
2nd

3rd

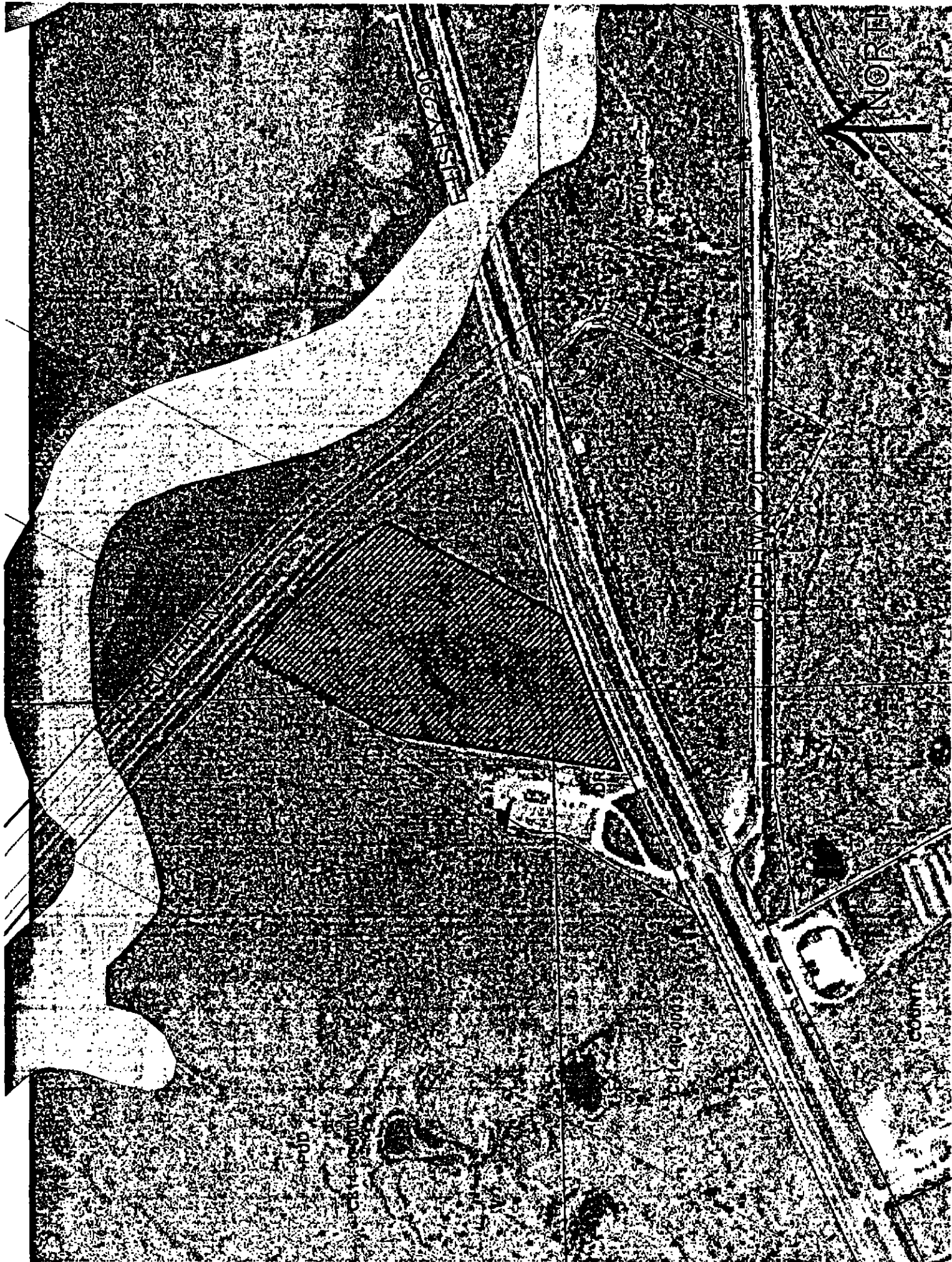
ORDINANCE NUMBER:

CASE MANAGER: Sherri Sirwaitis

PHONE: 974-3057,
sherri.sirwaitis@ci.austin.tx.us



	<p>SUBJECT TRACT </p> <p>PENDING CASE </p> <p>ZONING BOUNDARY </p> <p>CASE MGR: S.SIRWAITIS</p>	<p>ZONING</p> <p>CASE #: C14-05-0120</p> <p>ADDRESS: E US HWY 280 AT E</p> <p>PARKER LN</p> <p>SUBJECT AREA (acres): 12.609</p> <p>DATE: 05-07</p> <p>INTLS: SM</p>	<p>CITY GRID</p> <p>REFERENCE</p> <p>NUMBER</p> <p>S29</p>
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STAFF RECOMMENDATION

The staff's recommendation is to grant CH, Commercial Highway District, zoning. This recommendation includes a public restrictive covenant to encompass the conditions from the Traffic Impact Analysis for this case (TIA memo – Attachment A).

BASIS FOR RECOMMENDATION

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

The CH zoning district is intended for a use that has operating and traffic generation characteristics that require that the use be located at the intersection of state maintained highways other than scenic arterial roadways.

The property in question is located near the intersection of U.S. Highway 290 and East Parmer Lane.

2. *The proposed zoning should promote consistency and orderly planning.*

The CH-CO zoning district would be compatible and consistent with the surrounding uses because there is an existing commercial warehouse use located directly to the west of this site. In addition, the Harris Branch PUD, which is located to the north and west of this tract of land, is in the process of being rezoned for "CH" district development regulations and uses. The PUD rezoning for case C814-90-0003.13 was recommended by the Zoning and Platting Commission on September 20, 2005 and approved by the City Council on October 27, 2005 at first reading.

3. *Granting of the request should result in an equal treatment of similarly situated properties.*

The property to the north and west is in the process of being rezoned from PUD to PUD to allow for "CH" district development regulations and uses on Tracts SG-1 through SG-14, which are adjacent to this site.

4. *The proposed zoning should allow for a reasonable use of the property.*

The CH-CO zoning district would allow for a fair and reasonable use of the site. CH zoning is appropriate for this location because of the commercial and industrial character of the area.

The applicant proposes to use this site to develop retail uses, which will front onto U.S. Highway 290 East.

5. *Zoning should promote the policy of locating retail and more intensive zoning near the intersections of arterial roadways or at the intersections of arterials and major collectors.*

The site under consideration is located near the intersection of a highway and an arterial roadway.

EXISTING CONDITIONS

Site Characteristics

The subject tract is currently undeveloped. The property is moderately vegetated with clusters of trees stretching through the center of the site.

Impervious Cover

The maximum impervious cover allowed by the CH zoning district would be 85 %. However, because the watershed impervious cover is more restrictive than the zoning district's allowable impervious cover, the impervious cover is limited by the watershed regulations.

Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

Development Classification	% of Net Site Area	% with Transfers
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

Note: The most restrictive impervious cover limit applies.

Environmental

The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Gilleland Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code.

According to flood plain maps, there is no floodplain within, or adjacent to the project boundary.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

At this time, site specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

- Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

At this time, no information has been provided as to whether this property has any pre-existing approvals that preempt current water quality or Code requirements.

Transportation

A traffic impact analysis is required and has been received. Additional right-of-way, participation in roadway improvements, or limitations on development intensity may be recommended based on review of the TIA. [LDC, Sec. 25-6-142]. Comments will be provided in a separate memo (Attachment A).

Water and Wastewater

The landowner intends to serve the site with City of Austin water and wastewater utility service. Water and wastewater utility improvements, offsite main extension, and system upgrades are necessary to serve the site, each lot, and land use. In order to obtain City water and wastewater utility service, the landowner must obtain City approval of a Service Extension Request. For more information pertaining to the process and submittal requirements, contact Phillip Jaeger, Austin Water Utility, 625 East 10th Street, 5th Floor Waller Creek Center.

The Austin Water Utility reserves the right to make additional comments and to establish other requirements with the Service Extension Request. If the City approves a Service Extension Request and agrees to serve the site, the landowner, at own expense, will be responsible for providing water and wastewater utility improvements, offsite main extension, and system upgrades. The water and wastewater utility system must be in accordance with the City design criteria. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. The water and wastewater utility construction must be inspected by the City. The landowner must pay all associated applicable City fees.

Stormwater Detention

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in stormwater runoff will be mitigated through on-site stormwater detention ponds, or participation in the City of Austin Regional Stormwater Management Program if available.

Compatibility Standards

This tract of land is undeveloped. There is a scenic roadway and a pipeline shown within this area. The property in question is no subject compatibility requirements.



Date: January 11, 2006
To: Sherri Slrwaltis, Case Manager
CC: Kathy Hornaday, P.E. WHM Transportation Engineering
 Carol Barnes, COA Fiscal Officer
Reference: Parmer US 290 Retail TIA C14-05-0120

The Transportation Review Section has reviewed the Traffic Impact Analysis for Parmer US 290 Retail site, dated January 2005, prepared by Kathy Hornaday, P.E., WHM Transportation Engineering, and offers the following comments:

TRIP GENERATION

The Parmer US 290 Retail Tract is located at the northwest corner of the intersection of Parmer Lane and US 290 in east Austin.

The property is currently undeveloped and zoned Development Reserve (DR). The applicant has requested a zoning change to Commercial Highway (CH). The estimated completion of the project is expected in the year 2008.

Based on the standard trip generation rates established by the Institute of Transportation Engineers (ITE), the development will generate approximately 18,249 unadjusted average daily trips (ADT).

The table below shows the adjusted trip generation by land use for the proposed development:

Table 1. Trip Generation				
LAND USE	Size	ADT	AM Peak	PM Peak
Fast Food w/ Drive Thru	24,000sf	5712	617	395
Shopping Center	90,000sf	5001	140	367
Total		10,713	757	762

ASSUMPTIONS

1. Traffic growth rates provided by the Texas Department of Transportation were as follows:

Table 2. Growth Rates per Year	
Roadway Segment	%
All Roads	6%

2. In addition to these growth rates, background traffic volumes for 2004 included estimated traffic volumes for the following projects:

C814-90-0003.13 Harris Branch PUD
C814-00-2063 Wildhorse Ranch PUD

3. Reductions were taken for pass-by for the following uses:

Table 3. Summary of Pass-By and Internal Capture Reductions		
Land Use	Pass-By Reductions %	
	AM	PM
Fast Food Restaurant w/ Drive Thru	49	50
Shopping Center	0	34

4. A 5% reduction was taken for internal capture.
5. No reductions were taken for transit use.

EXISTING AND PLANNED ROADWAYS

US 290 ~ This roadway is currently a four lane divided arterial and is planned to be a six lane freeway by the year 2015 with 400' of right-of-way. The 2003 traffic volumes for US 290, west of Parmer Lane, were 33,000 vehicles per day. US 290 is not included in the Bicycle Plan within the site vicinity.

Parmer Lane ~ Parmer Lane is classified as a four lane divided major arterial. North of US 290 the estimated traffic volume is 14,610 vpd. It is expected by the year 2025 that Parmer Lane will be upgraded to a six lane expressway from Harris Branch Parkway to US 290 (East) in accordance with the Roadway Plan. Parmer Lane is not included in the Bicycle Plan within the site vicinity.

Old Texas Highway 20 ~ This roadway is classified as a two lane local street within the vicinity of the site with an estimated daily traffic volume of 3,380vpd south of US 290.

INTERSECTION LEVEL OF SERVICE (LOS)

The TIA analyzed 4 Intersections, 1 of which are or will be signalized. Existing and projected levels of service are as follows, assuming that all improvements recommended in the TIA are built:

Table 4. Level Of Service				
Intersection	Existing 2005		Site + Forecasted 2008	
	AM	PM	AM	PM
Parmer Lane and US 290*	D	D	F	F
Old Texas Highway 20 and US 290	F	A	F	F
Driveway A and US 290			B	A
Driveway B and Parmer Lane			A	C

* = SIGNAL

RECOMMENDATIONS

1) Prior to 3rd Reading at City Council fiscal is required to be posted for the following Improvements:

Intersection	Improvement	Pro Rata Share (%)	Pro Rata Share (\$)
Parmer Lane and US 290	Restripe Northbound approach to provide a left turn bay and through/right shared lane	2.7%	\$162
	Construct an additional southbound left turn bay	18.8%	\$9,158
	Construct southbound right turn bay	18.8%	\$11,420
	Construct an additional eastbound left turn bay	15.6%	\$8,149
TOTAL			\$28,889

- 2) Minimum driveway widths and lane assignments as stated in the TIA.
- 3) Right turn lanes should be constructed into the site at both driveways A and B.
- 4) Final approval from TXDOT is required prior to 1st Reading at City Council.
- 5) Development of this property should be limited to uses and intensities which will not exceed or vary from the projected traffic conditions assumed in the TIA, including peak hour trip generations, traffic distribution, roadway conditions, and other traffic related characteristics.

If you have any questions or require additional information, please contact me at 974-2788.



Emily M. Barron
Sr. Planner - Transportation Review Staff
Watershed Protection and Development Review

ORDINANCE NO. _____

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE
2 PROPERTY LOCATED AT U.S. HIGHWAY 290 EAST AND EAST PARMER
3 LANE FROM DEVELOPMENT RESERVE (DR) DISTRICT TO COMMERCIAL
4 HIGHWAY-CONDITIONAL OVERLAY (CH-CO) COMBINING DISTRICT:
5

6 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:
7

8 **PART 1.** The zoning map established by Section 25-24.91 of the City Code is amended to
9 change the base district from development reserve (DR) district to commercial highway-
10 conditional overlay (CH-CO) combining district on the property described in Zoning Case
11 No. C14-05-0120, on file at the Neighborhood Planning and Zoning Department, as
12 follows:
13

14 A 12.463 acre tract of land, more or less, out of the James Manor Survey No. 40,
15 Travis County, the tract of land being more particularly described by metes and
16 bounds in Exhibit "A" incorporated into this ordinance (the "Property"),
17

18 locally known as the property located at U.S. Highway 290 East and East Parmer Lane, in
19 the City of Austin, Travis County, Texas, and generally identified in the map attached as
20 Exhibit "B".
21

22 **PART 2.** The Property within the boundaries of the conditional overlay combining district
23 established by this ordinance is subject to the following conditions:
24

25 1. A building or structure on the Property may not exceed a height of 90 feet.
26

27 2. The following uses of the Property are prohibited uses:
28

29 Adult oriented businesses
30 Commercial blood plasma center
31 Pawnshop services
32 Guidance services
33 Transitional housing
34

Campground
Drop-off recycling collection facility
Vehicle storage
Residential treatment

35 Except as specifically restricted under this ordinance, the Property may be developed and
36 used in accordance with the regulations established for the commercial highway (CH) base
37 district and other applicable requirements of the City Code.

1
2 **PART 3.** This ordinance takes effect on _____, 2006.
3
4

5 **PASSED AND APPROVED**
6
7

8
9 _____, 2006

§
§
§

Will Wynn
Mayor

10
11
12
13
14 **APPROVED:**

David Allan Smith
City Attorney

ATTESTS:

Shirley A. Gentry
City Clerk



12.463 ACRE TRACT
(542,874 Sq. Ft.)
50198-06ex1.dwg

FN NO. 50198-06-2
JULY 18, 2005
JOB NO. 50198-06

EXHIBIT A
FIELD NOTE DESCRIPTION

OF A 12.463 ACRE TRACT OF LAND SITUATED IN THE JAMES MANOR SURVEY NO.40, TRAVIS COUNTY, TEXAS AND BEING A PORTION OF THAT CERTAIN 12.609 ACRE TRACT OF LAND AS CONVEYED TO G & G VENTURE NUMBER ONE, A TEXAS GENERAL PARTNERSHIP IN VOLUME 8534, PAGE 457 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 12.463 ACRE TRACT BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A FOUND CONCRETE MONUMENT LOCATED IN THE NORTHWESTERLY LINE OF THE BUTLER FAMILY PARTNERSHIP TRACT AS DESCRIBED IN VOLUME 12271, PAGE 872 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, FOR THE SOUTHERLY CORNER OF THAT CERTAIN 0.073 ACRE TRACT, CONVEYED TO THE STATE OF TEXAS, AS DESCRIBED IN VOLUME 13105, PAGE 799 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS

THENCE, S 27°51'03" W, ALONG THE COMMON BOUNDARY LINE BETWEEN THIS TRACT AND THE SAID BUTLER FAMILY PARTNERSHIP TRACT, A DISTANCE OF 256.91 FEET TO A FOUND CONCRETE MONUMENT FOR THE NORTHEASTERLY CORNER OF THAT CERTAIN SAVE & EXCEPT 3.366 ACRE TRACT, STATE OF TEXAS PARCEL 1216;

THENCE, S 27° 44' 23" W, ALONG THE EASTERLY LINE OF SAID 3.366 ACRE TRACT, A DISTANCE OF 393.47 FEET TO A FOUND ½ INCH IRON ROD IN THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. STATE HIGHWAY 290 (R.O.W. VARIES), MARKING THE NORTHEASTERLY CORNER OF THAT CERTAIN RIGHT OF WAY EASEMENT OF RECORD IN VOLUME 2246, PAGE 380 AND VOLUME 3144, PAGE 1018 OF SAID OFFICIAL PUBLIC RECORDS;

THENCE, SOUTHWESTERLY, ALONG THE NORTHERLY LINE OF SAID RIGHT OF WAY EASEMENT OF RECORD, ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 5879.65 FEET, A CENTRAL ANGLE OF 05° 23' 53", AN ARC LENGTH OF 553.94 FEET AND A CHORD BEARING: S 67° 54' 05" W, A DISTANCE OF 553.75 FEET TO A FOUND ½ INCH IRON ROD MARKING THE SOUTHEASTERLY CORNER OF THAT CERTAIN 5.26 ACRE TRACT CONVEYED TO JOHN CHAPMAN OF RECORD IN VOLUME 12881, PAGE 2279 OF SAID OFFICIAL PUBLIC RECORDS;

THENCE, N 09°34'39" E, ALONG THE COMMON BOUNDARY LINE BETWEEN THIS TRACT AND THE 5.26 ACRES, PASSING AT A DISTANCE OF 260.25 FEET A FOUND CONCRETE MONUMENT, AND CONTINUING FOR A TOTAL DISTANCE OF 800.24 FEET TO A FOUND 1/2 INCH IRON ROD FOR THE NORTHEASTERLY CORNER OF THE SAID 5.26 ACRES, SAME BEING THE SOUTHEASTERLY CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED TO AUSTIN HB RESIDENTIAL PROPERTIES, LTD., AS DESCRIBED IN VOLUME 13100, PAGE 1, THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS;

THENCE, N 28°00'42" E, ALONG THE COMMON BOUNDARY LINE BETWEEN THIS TRACT AND THE SAID AUSTIN HB RESIDENTIAL PROPERTIES LTD. TRACT, A DISTANCE OF 501.13 FEET TO A FOUND CONCRETE MONUMENT LOCATED IN THE SOUTHWESTERLY RIGHT OF WAY LINE OF E. FARMER LANE;

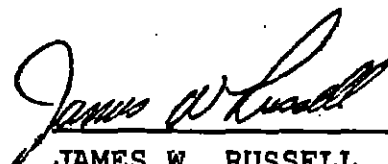
THENCE, ALONG THE SOUTHWESTERLY RIGHT OF WAY LINE OF E. FARMER LANE, THE FOLLOWING COURSES:

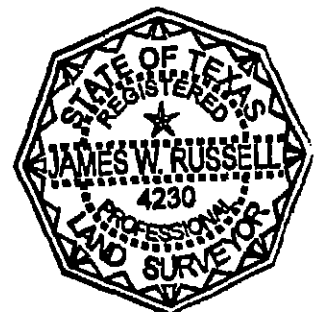
S 48°09'45" E, A DISTANCE OF 391.13 FEET TO A FOUND CONCRETE MONUMENT

SOUTHEASTERLY, ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1332.32 FEET, CENTRAL ANGLE OF 10°29'35", AN ARC LENGTH OF 244.00 FEET AND A CHORD BEARING: S 39°54'46" E, 243.66 FEET, TO THE POINT OF BEGINNING, AND CONTAINING 12.463 ACRES, MORE OR LESS.

I, JAMES W. RUSSELL, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

BURY & PARTNERS, INC.
ENGINEERS AND SURVEYORS
10000 SAN PEDRO, SUITE #100
SAN ANTONIO, TEXAS 78216

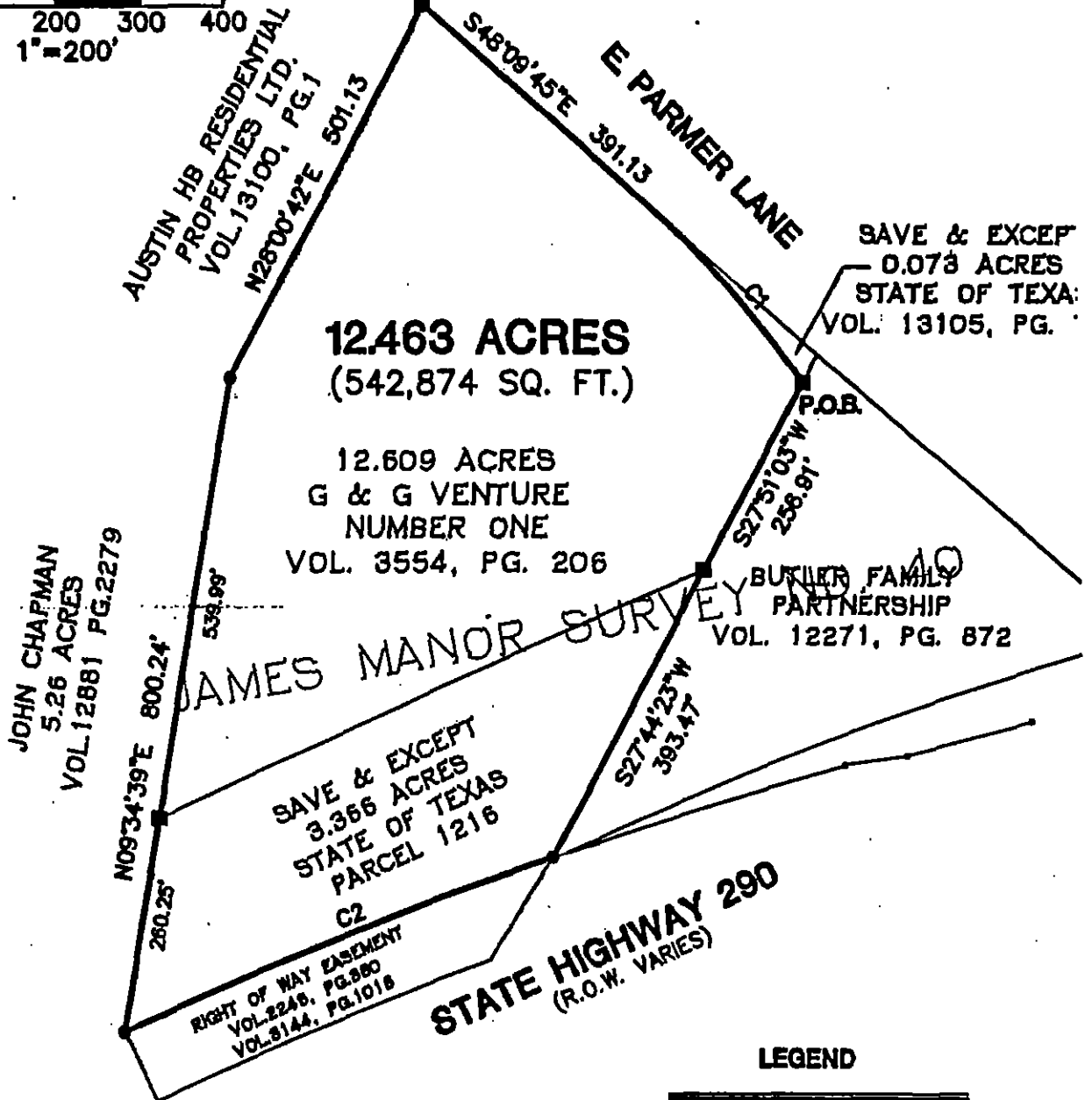
 7/18/05
JAMES W. RUSSELL DATE
R.P.L.S #4230
STATE OF TEXAS



CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD DIRECTION	CHORD
C1	10°28'35"	1332.32	244.00	S38°54'46"E	243.68
C2	5°23'53"	8879.65	553.94	S67°54'05"W	553.75

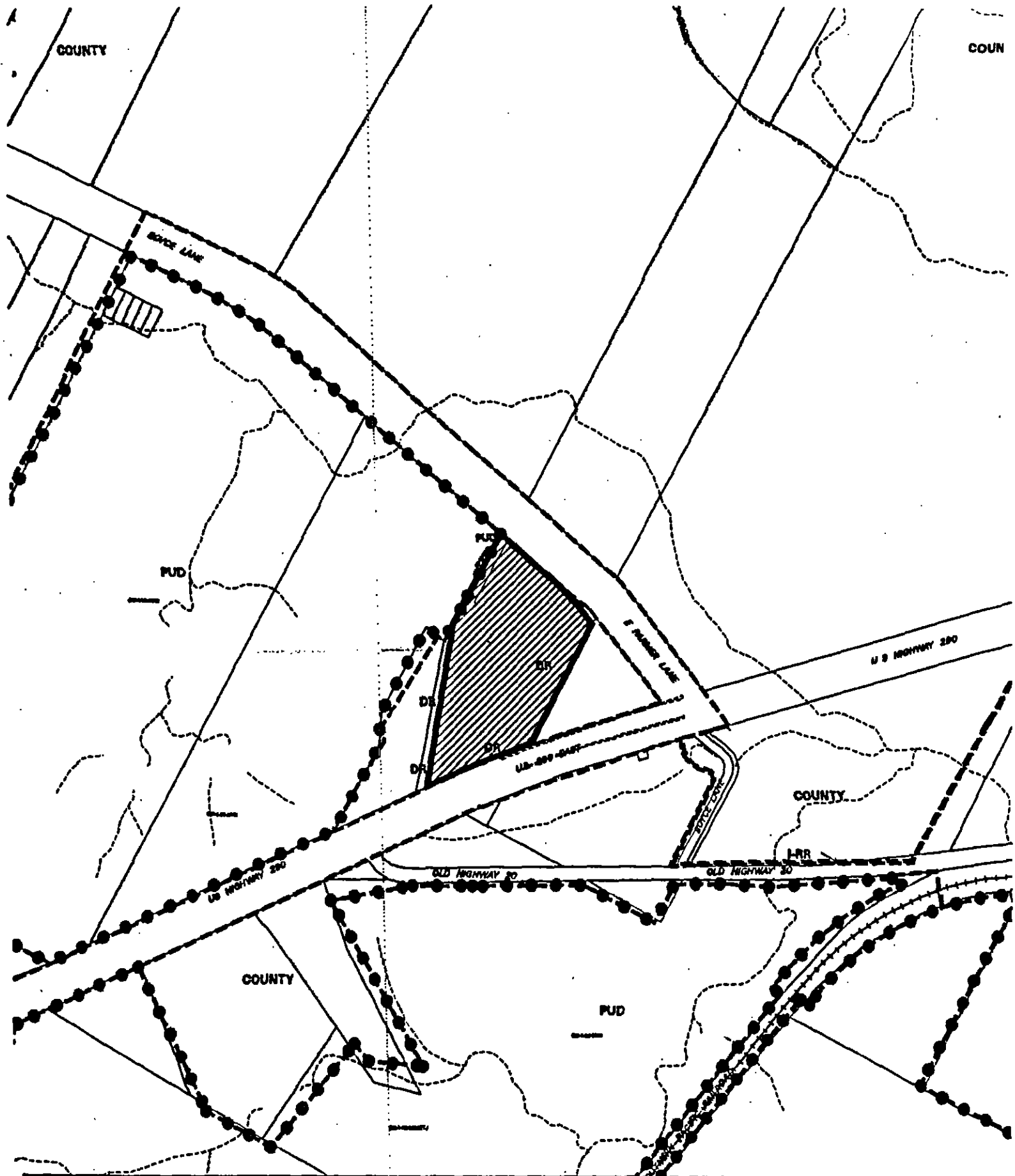
0 100 200 300 400
1"=200'







Bury+Partners
ENGINEERING SOLUTIONS
18000 San Pedro Avenue, Suite 100
San Antonio, TX 78216
Tel. (214) 625-8600 Fax (214) 625-0629
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SKETCH TO ACCOMPANY DESCRIPTION OF
OF A 12.463 ACRE TRACT OF LAND SITUATED IN THE JAMES
MANOR SURVEY NO. 40, TRAVIS COUNTY, TEXAS AND BEING A
PORTION OF THAT CERTAIN 12.609 ACRE TRACT OF LAND AS
CONVEYED TO G & G VENTURE NUMBER ONE, A TEXAS
GENERAL PARTNERSHIP IN VOLUME 8534, PAGE 457 OF THE
OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

PARMER LANE •
U.S. 290
AUSTIN, TEXAS



 1" = 800'	SUBJECT TRACT PENDING CASE ZONING BOUNDARY CASE MGR: 6.8IRWAITIS	  	CASE #: C14-05-0120 ADDRESS: E US HWY 290 AT E PARKER LN SUBJECT AREA (acres): 12.609	ZONING EXHIBIT B DATE: 05-07 INTLS: SM	CITY GRID REFERENCE NUMBER 829

RESTRICTIVE COVENANT

OWNER: Cerco Development, Inc., a Texas corporation

ADDRESS: 221 West 6th Street, Suite 1300, Austin, Texas 78701

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A 12.463 acre tract of land, more or less, out of the James Manor Survey No. 40, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant.

WHEREAS, the Owner, whether one or more, of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generates traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by WHM Transportation Engineering Consultants, Inc., dated January 2006, or as amended and approved by the Director of the Watershed Protection and Development Review Department. Development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department dated January 11, 2006. The TIA shall be kept on file at the Watershed Protection and Development Review Department.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the _____ day of _____, 2006.

OWNER:

**Cerco Development, Inc.,
a Texas corporation**

By: _____
Andy Pastor,
Executive Vice President

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2006, by Andy Pastor, Executive Vice President, of Cerco Development, Inc., a Texas corporation, on behalf of the corporation.

Notary Public, State of Texas

Bury+Partners
ENGINEERING SOLUTIONS

12.463 ACRE TRACT
(542,874 Sq. Ft.)
50198-06ex1.dwg

FN NO. 50198-06-2
JULY 18, 2005
JOB NO. 50198-06

EXHIBIT A

FIELD NOTE DESCRIPTION

OF A 12.463 ACRE TRACT OF LAND SITUATED IN THE JAMES MANOR SURVEY NO.40, TRAVIS COUNTY, TEXAS AND BEING A PORTION OF THAT CERTAIN 12.609 ACRE TRACT OF LAND AS CONVEYED TO G & G VENTURE NUMBER ONE, A TEXAS GENERAL PARTNERSHIP IN VOLUME 8534, PAGE 457 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 12.463 ACRE TRACT BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A FOUND CONCRETE MONUMENT LOCATED IN THE NORTHWESTERLY LINE OF THE BUTLER FAMILY PARTNERSHIP TRACT AS DESCRIBED IN VOLUME 12271, PAGE 872 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, FOR THE SOUTHERLY CORNER OF THAT CERTAIN 0.073 ACRE TRACT, CONVEYED TO THE STATE OF TEXAS, AS DESCRIBED IN VOLUME 13105, PAGE 799 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS

THENCE, S 27°51'03" W, ALONG THE COMMON BOUNDARY LINE BETWEEN THIS TRACT AND THE SAID BUTLER FAMILY PARTNERSHIP TRACT, A DISTANCE OF 256.91 FEET TO A FOUND CONCRETE MONUMENT FOR THE NORTHEASTERLY CORNER OF THAT CERTAIN SAVE & EXCEPT 3.366 ACRE TRACT, STATE OF TEXAS PARCEL 1216;

THENCE, S 27° 44' 23" W, ALONG THE EASTERLY LINE OF SAID 3.366 ACRE TRACT, A DISTANCE OF 393.47 FEET TO A FOUND 1/4 INCH IRON ROD IN THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. STATE HIGHWAY 290 (R.O.W. VARIES), MARKING THE NORTHEASTERLY CORNER OF THAT CERTAIN RIGHT OF WAY EASEMENT OF RECORD IN VOLUME 2246, PAGE 380 AND VOLUME 3144, PAGE 1018 OF SAID OFFICIAL PUBLIC RECORDS;

THENCE, SOUTHWESTERLY, ALONG THE NORTHERLY LINE OF SAID RIGHT OF WAY EASEMENT OF RECORD, ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 5879.65 FEET, A CENTRAL ANGLE OF 05° 23' 53", AN ARC LENGTH OF 553.94 FEET AND A CHORD BEARING: S 67° 54' 05" W, A DISTANCE OF 553.75 FEET TO A FOUND 1/4 INCH IRON ROD MARKING THE SOUTHEASTERLY CORNER OF THAT CERTAIN 5.26 ACRE TRACT CONVEYED TO JOHN CHAPMAN OF RECORD IN VOLUME 12881, PAGE 2279 OF SAID OFFICIAL PUBLIC RECORDS;

THENCE, N 09°34'39" E, ALONG THE COMMON BOUNDARY LINE BETWEEN THIS TRACT AND THE 5.26 ACRES, PASSING AT A DISTANCE OF 260.25 FEET A FOUND CONCRETE MONUMENT, AND CONTINUING FOR A TOTAL DISTANCE OF 800.24 FEET TO A FOUND 1/4 INCH IRON ROD FOR THE NORTHEASTERLY CORNER OF THE SAID 5.26 ACRES, SAME BEING THE SOUTHEASTERLY CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED TO AUSTIN HB RESIDENTIAL PROPERTIES, LTD., AS DESCRIBED IN VOLUME 13100, PAGE 1, THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS;

THENCE, N 28°00'42" E, ALONG THE COMMON BOUNDARY LINE BETWEEN THIS TRACT AND THE SAID AUSTIN HB RESIDENTIAL PROPERTIES LTD. TRACT, A DISTANCE OF 501.13 FEET TO A FOUND CONCRETE MONUMENT LOCATED IN THE SOUTHWESTERLY RIGHT OF WAY LINE OF E. PARMER LANE;

THENCE, ALONG THE SOUTHWESTERLY RIGHT OF WAY LINE OF E. PARMER LANE, THE FOLLOWING COURSES:

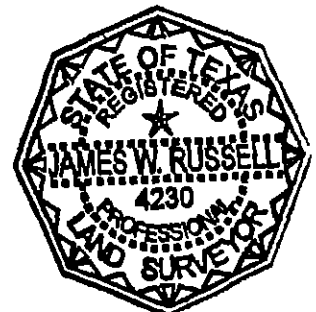
S 48°09'45" E, A DISTANCE OF 391.13 FEET TO A FOUND CONCRETE MONUMENT

SOUTHEASTERLY, ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1332.32 FEET, CENTRAL ANGLE OF 10°29'35", AN ARC LENGTH OF 244.00 FEET AND A CHORD BEARING: S 39°54'46" E, 243.66 FEET, TO THE POINT OF BEGINNING, AND CONTAINING 12.463 ACRES, MORE OR LESS.

I, JAMES W. RUSSELL, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

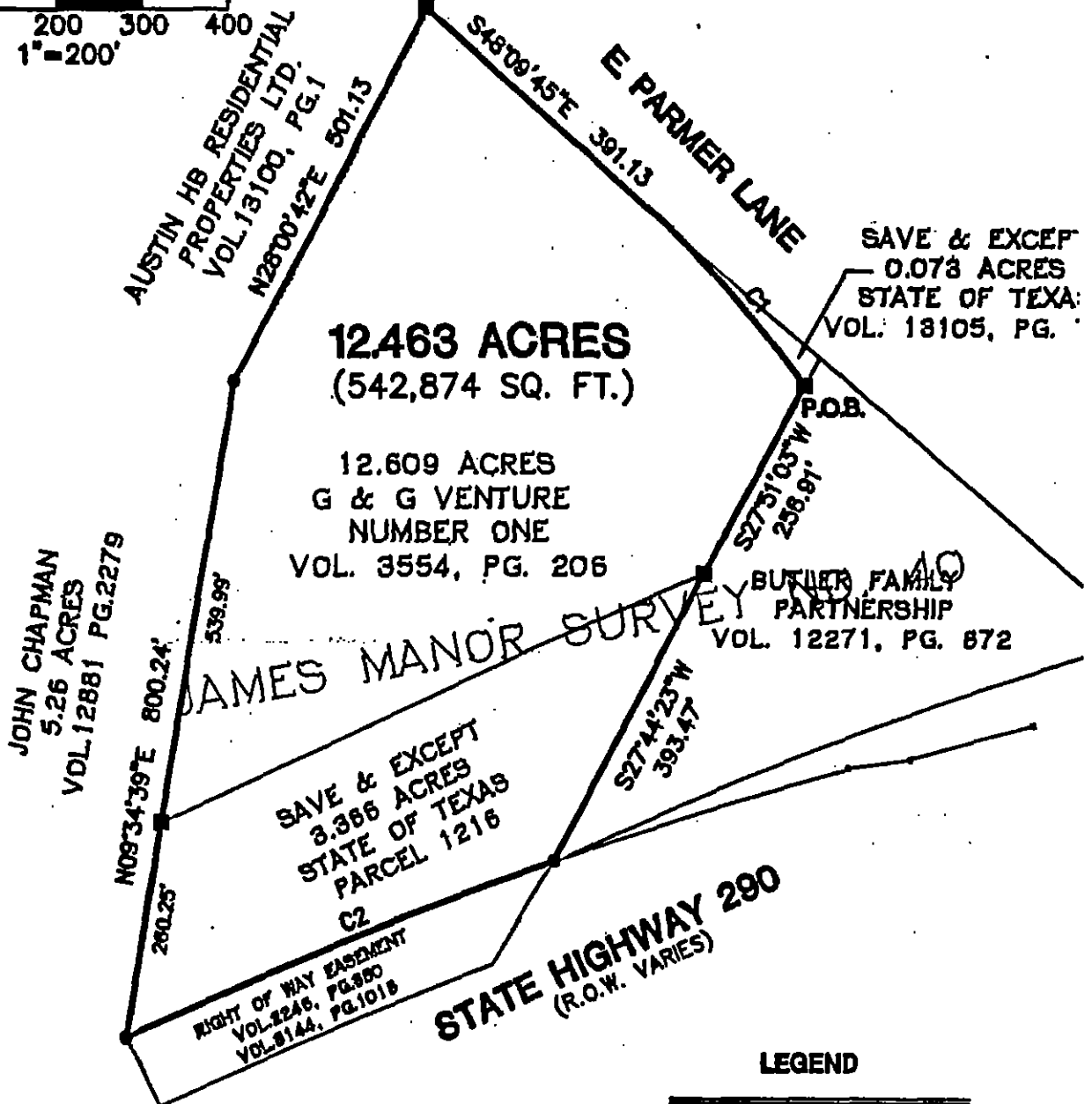
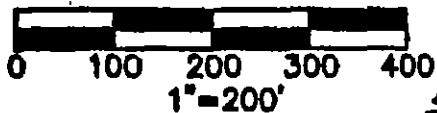
BURY & PARTNERS, INC.
ENGINEERS AND SURVEYORS
10000 SAN PEDRO, SUITE #100
SAN ANTONIO, TEXAS 78216

James W. Russell 7/18/05
JAMES W. RUSSELL DATE
R.P.L.S #4230
STATE OF TEXAS



CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD DIRECTION	CHORD
C1	10°29'35"	1332.32	244.00	S39°34'48"E	243.66
C2	5°23'53"	5879.65	553.94	S67°34'05"W	653.75



LEGEND

- 1/2" IRON ROD FOUND
- MONUMENT FOUND
- P.O.B. POINT OF BEGINNING

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PARMER LANE •
U.S. 290
AUSTIN, TEXAS

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767-8828
Attention: Diana Minter, Legal Assistant